



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 1, 2016

1611-VS-15

Petition Number: 1611-VS-15

Subject Site Address: 17001 Oak Ridge Road

Petitioner: Jackson Development, LLC

Request: The Petitioner is requesting a modification of a condition of approval for previously granted Variances of Standard that modified Architectural Standards (1605-VS-08) in the OI: Open Industrial District.

Current Zoning: OI: Open Industrial District

Current Land Use: Vacant

Approximate Acreage: 8.6 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan Exhibit
4. Landscaping Plan
5. Building Elevations
6. Existing Conditions Exhibit
7. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

PROPERTY INFORMATION

The subject property is 8.6 acres +/- in size and is located at 17001 Oak Ridge Road (see **Exhibit 2**). The property is currently vacant land.

The property is zoned OI: Open Industrial District. The surrounding properties include residential dwellings to the west in the Countryside subdivision and industrial uses surrounding the remainder of the property.

PETITION HISTORY

This petition will receive a public hearing at the November 1, 2016, Board of Zoning Appeals meeting.

Variance of Standard: On May 10, 2016, the Board of Zoning Appeals approved a Variance of Standard (1605-VS-08) with conditions, as further described herein, for a reduction in the Architectural Standards for Masonry Materials and an increase of the Building Façade offsets. The variance was granted on the condition that "existing trees and mound located along the western property line be preserved" (see **Exhibit 4**).

Development Plan: On June 6, 2016, the Plan Commission approved the development plan (1604-DDP-11) for the Property to allow for the construction of the proposed building. In addition to this request, the petitioner has also filed a Detailed Development Plan application requesting approval of an amended landscape plan, subject to the Board's consideration of this petition, which is scheduled for a public hearing at the Plan Commission's November 9, 2016, meeting.

VARIANCE REQUEST

The petitioner is requesting this modification of a condition of approval for a previously granted variance that allowed for a reduction in the Architectural Standards for Masonry Materials and an increase of the Building Façade offsets, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Building Elevations Exhibit (see **Exhibit 5**). The architectural variance was granted on the condition that "existing trees and mound located along the western property line be preserved" (see **Exhibit 4**).

The existing mound is ten feet (10') tall with several existing evergreen trees. The existing mound exceeds the height required by the otherwise applicable standards of the Unified Development Ordinance ("UDO"). The External Street Frontage Landscaping Requirements for Non-Residential Uses in Industrial Districts (Article 6.8(M)(2) of the UDO) require a minimum three foot (3') tall undulating mound along the entire External Street Frontage.

As a result, the petitioner is requesting to modify the condition of the previously granted Variance of Standard to continue to preserve the existing evergreen trees, but require a three foot (3') tall mound in accordance with the UDO instead of maintaining the existing ten foot (10') tall mound.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the November 1, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon

¹ Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.

public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

The Department recommends approval of the request to modify its imposed condition of approval for the variance that modified Architectural Standards (1605-VS-08) in the OI: Open Industrial District.

Modified Condition: The existing evergreen trees along Oak Ridge Road, as depicted on the Landscape Plan, shall be preserved.

Approval: If the Board is inclined to approve the request, then the Department recommends the following findings:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the use and proposed improvements will otherwise comply with the applicable standards of the OI District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the surrounding properties to the north, east and south are also industrial uses; (ii) the proposed landscaping plans will otherwise comply with the standards of the OI District; and (iv) the approval of the variance will allow for the improvement of the property in a manner substantially consistent with the quality and character of the surrounding area.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.

Denial: If the Board is inclined to reject or deny the request, then the Department recommends denying the request, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.